

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**MATTHEW LEIPOLT and
CHRISTOPHER ADAMS,
on behalf of themselves and all others
similarly situated,**

Plaintiffs,

-vs-

Case No. 15-C-628

ALL-WAYS CONTRACTORS,

Defendant.

DECISION AND ORDER

On May 5, 2016, the Court granted the defendant's motion for summary judgment on the plaintiffs' claim under the Fair Labor Standards Act; relinquished jurisdiction over the plaintiff's supplemental state law claims; and denied the plaintiffs' motion for leave to file an amended complaint as futile. The plaintiffs now move to reconsider, which the Court construes as a motion to alter or amend because it was filed within 28 days after the entry of judgment. Fed. R. Civ. P. 59(e).

The plaintiffs argue that the Court erred in denying their motion for leave to amend because the proposed amendment included federal and state law claims. That is, the Court explained that an amendment would be futile with respect to the FLSA claims, but the Court did not address the

merits of the state law claims. This matters for statute of limitations purposes as the plaintiffs plan to re-file their state law claims in state court (if they already haven't). Therefore, the Court's blanket holding regarding the futility of the amendment was a manifest error of law. *Blue v. Hartford Life & Acc. Ins. Co.*, 698 F.3d 587, 598 (7th Cir. 2012). The amendment is not futile with respect to the state law claims.

IT IS HEREBY ORDERED THAT plaintiffs' motion for reconsideration [ECF No. 69] is **GRANTED**.

IT IS FURTHER ORDERED THAT plaintiffs' motion for leave to file an amended complaint [ECF No. 18] is **GRANTED** with respect to the state law claims and **DENIED** with respect to the federal claims.

Dated at Milwaukee, Wisconsin, this 23rd day of June, 2016.

BY THE COURT:



HON. RUDOLPH T. RANDA
U.S. District Judge